IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22167 of 2004

Between:

Sri M.Madhava Reddy S/o.M.Narayana Reddy
Sangareddy, Medak District.

..... PETITIONER

AND

1 The Chief Civil Engineer-II APSRTC, Musheerabad, Hyderabad.
2 The Executive Engineer APSRTC, Hyderabad Rural
Mahatmagandhi Bus Station, Hyderabad.
3 The Deputy Executive Engineer APSRTC, Sangareddy, Medak District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order, direction or a writ more particularly in the nature of writ of Mandamus by declaring the action of the R-2 in transfering the petitioner vide order No.EEHR/813 (2)-2002-CED Dt.4.11.2004 (Sl.No.3) while the representation submitted toR-1 on 17-11-2004 is pending disposal as arbitrary, discriminatory, without application of mind, malice in Law, illegal being violative of the Articles 14,16 and 21 of the Constitution of India and set aside the same in respect of the petitioner alone and consequently direct the respondents to retain the petitioner at Sangareddy by disposing of the representation dt.17.11.2004 submitted to R-1 and pass such other orders.

Counsel for the Petitioner:MR.KRISHNA DEVAN

Counsel for the Respondent Nos.1 to 3: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage made the following Order:

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.22167 OF 2004

ORDER:

This Writ Petition is filed to issue a Writ of Mandamus declaring the action of the second respondent in transferring the petitioner vide impugned order dated 04.11.2004 as illegal and arbitrary.

Learned counsel for the petitioner contended that in view of the fact that petitioner's children are studying in school, the transfer cannot be effected during the middle of the academic year. In support of this contention, he relied on **Director of School Education, Madras and others Vs. O.Karuppa Thevan and another** and prays to set aside the impugned order.

Learned counsel for the respondents contended that on the administrative grounds, the transfer of the petitioner was effected. Therefore, he prays to dismiss the writ petition.

Learned counsel for the petitioner placed reliance on Director of School Education, Madras and others case (1 supra), wherein their lordships set aside the impugned order on the ground that the transfer was effected in the middle of the academic year. At the same time, it is undisputed fact that transfer is not only incidence of service, but one of the service conditions of the employee and unless the mala fides are attributed against the transferring authority, no challenge can be made by the petitioner. Simply because his children are studying at Sangareddy and that he was suffering with some ailment, it cannot be ground to seek transfer, but that may be a ground for transfer for consideration before the transferring authority. It is submitted that the petitioner has made a representation dated 17.11.2004 to the first respondent and the same shall be considered in accordance with rules governing the transfers.

In the circumstances, the writ petition is disposed of directing the first respondent to consider the representation dated 17.11.2004 and dispose of the same in accordance with law. No costs.

02.12.2004

Note:CC today

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To

1 The Chief Civil Engineer-II APSRTC, Musheerabad, Hyderabad.
2 The Executive Engineer APSRTC, Hyderabad Rural
Mahatmagandhi Bus Station, Hyderabad.
3 The Deputy Executive Engineer APSRTC, Sangareddy, Medak District.

4. Two CD copies.